

4105. Misbranding of "Dr. T. B. Smith's Lung Tonic." U. S. * * * v. T. B. Smith Medicine Co., a corporation. Plea of guilty. Fine, \$100. (F. & D. No. 5917. I. S. No. 7976-e.)

On January 13, 1915, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the T. B. Smith Medicine Co., a corporation, Lexington, Ky., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about December 17, 1912, from the State of Kentucky into the State of Ohio, of a quantity of "Dr. T. B. Smith's Lung Tonic" which was misbranded. The product was labeled: (On carton) "Dr. T. B. Smith's Lung Tonic Contains no alcohol or narcotic. Guaranteed under the Pure Food and Drug Act June 30, 1906. For relieving and toning the lungs, consumption, coughs, asthma, hoarseness, croup, measles, bronchial congestions, colds, whooping cough. Excellent expectorant. Price, 25 Cents. Manufactured by the T. B. Smith Medicine Co. Lexington, Ky." (On one side of carton) "Out-sell all others. 25 years in use. Children cry for it—let them have it. Nothing dangerous in Dr. T. B. Smith's Lung Tonic. It relieves all that take it." (On other side of carton) "A Superior Compound, free from Opiates and other dangerous drugs usually found in cough remedies Sure and Safe. Truly the Remedy for Grip." (On back of carton) "Directions—Dose for Adults:—For Coughs, Colds and Hoarseness, two teaspoonsful every four to six hours; for Consumption, Pneumonia, Asthma, and Bronchial and Throat Affections, a tablespoonful every four to six hours; also take ten to fifteen drops after each coughing spell. Children from two to twelve years of age half the quantity used by adults. Infants, half teaspoonful. Prepared by Dr. T. B. Smith Medicine Co. Lexington, Ky. Price, 25 cents." (On bottle) "No Alcohol or Narcotics. Dr. T. B. Smith's Lung Tonic Pleasant and Agreeable to Take. For Consumption, Hoarseness, Coughs, Colds, Asthma, Croup, Whooping Cough, Measles, Lagrippe, Acute and Chronic Pneumonia This Remedy was known before the Food and Drug Law as Syrup of Black Cohosh. Prepared by Dr. T. B. Smith, Lexington, Ky. Price 25 Cents. Directions. Dose for Adults: For Coughs, Colds and Hoarseness, tablespoonful every four to six hours; for Consumption, Pneumonia, Asthma and Bronchial and Throat Affections, a tablespoonful every four to six hours; also take ten to fifteen drops after each coughing spell. Children from two to twelve years of age, half the quantity used by adults. Infants, half teaspoonful. We furnish this to Consumptive Patients by the gallon. Price, \$7.00 per gallon. Price, 25 Cents." The pamphlet or circular accompanying the article contained, among other things, the following: "A Valuable Remedy for Consumption, Coughs, Colds, Asthma, Croup, Hoarseness, Pneumonia, and all Acute and Chronic Affections of the Throat and Lungs. * * * It surpasses all cough medicines for consumption."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that the product was an aqueous liquid containing sugar, oils of cinnamon, wintergreen and peppermint, and a small amount of vegetable matter.

Misbranding of the product was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the label aforesaid, to wit, (On bottle) "* * * Lung Tonic * * * For Consumption * * * Asthma, Croup, Whooping Cough, Measles, Lagrippe, Acute and Chronic Pneumonia," (On carton) "* * * Lung Tonic * * * For relieving and toning the lungs, consumption * * * croup, measles * * * whooping cough. * * * It relieves all that take it," were false and fraudulent in that the same were applied to said article knowingly and in reckless

and wanton disregard of their truth or falsity so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was in whole or in part composed of, or contained, ingredients or medicinal agents effective as a lung tonic and effective for the relief and cure of consumption, asthma, croup, whooping cough, measles, grippe, acute and chronic pneumonia, and effective for relieving and toning the lungs; when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective as a lung tonic, or effective for the relief and cure of consumption, asthma, croup, whooping cough, measles, grippe, acute and chronic pneumonia, or effective for relieving and toning the lungs. Misbranding was alleged for the further reason that the following statements regarding the therapeutic or curative effects of the article, included in the circular or pamphlet aforesaid, to wit, "A Valuable Remedy for Consumption * * * Asthma, Croup * * * Pneumonia, and all Acute and Chronic Affections of the Throat and Lungs. * * * It surpasses all cough medicines for consumption," were false and fraudulent in that, by means of said circular or pamphlet, they were applied to said article knowingly and in reckless and wanton disregard of their truth or falsity so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was in whole or in part composed of, or contained, ingredients or medicinal agents effective as a remedy for consumption, asthma, croup, pneumonia, and all acute and chronic affections of the throat and lungs; when, in truth and in fact, said article was not in whole or in part composed of, and did not contain, ingredients or medicinal agents effective as a remedy for consumption, asthma, croup, pneumonia, and all acute and chronic affections of the throat and lungs.

On April 6, 1915, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$100.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., December 4, 1915.